

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 ANTOINETTE B. CINCOTTA
Deputy Attorney General
4 State Bar No. 120482
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2095
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-27**

12 **THOMAS WALKER CARSON**
13 **AKA THOMAS W. CARSON**
14 **35982 Singleton Road**
Calimesa, CA 92320

A C C U S A T I O N

15 **Registered Nurse License No. RN 436738**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
22 Department of Consumer Affairs.

23 2. On or about March 31, 1989, the Board of Registered Nursing issued Registered
24 Nurse License Number RN 436738 to Thomas Walker Carson, aka Thomas W. Carson
25 (Respondent). The Registered Nurse License was in full force and effect at all times relevant to
26 the charges brought herein and will expire on November 30, 2012, unless renewed.

27 ///

28 ///

1 JURISDICTION

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline
6 any licensee, including a licensee holding a temporary or an inactive license, for any reason
7 provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

8 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license
9 shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the
10 licensee or to render a decision imposing discipline on the license.

11 6. Section 2811(b) of the Code provides, in pertinent part, that the Board may renew an
12 expired license at any time within eight years after the expiration.

13 STATUTORY AUTHORITIES

14 7. Section 482 of the Code states:

15 "Each board under the provisions of this code shall develop criteria to evaluate the
16 rehabilitation of a person when:

17 "(a) Considering the denial of a license by the board under Section 480; or

18 "(b) Considering suspension or revocation of a license under Section 490.

19 "Each board shall take into account all competent evidence of rehabilitation furnished
20 by the applicant or licensee."

21 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
22 revoke a license on the ground that the licensee has been convicted of a crime substantially
23 related to the qualifications, functions, or duties of the business or profession for which the
24 license was issued.

25 9. Section 493 of the Code states:

26 "Notwithstanding any other provision of law, in a proceeding conducted by a board within
27 the department pursuant to law to deny an application for a license or to suspend or revoke a
28 license or otherwise take disciplinary action against a person who holds a license, upon the

1 ground that the applicant or the licensee has been convicted of a crime substantially related to the
2 qualifications, functions, and duties of the licensee in question, the record of conviction of the
3 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
4 and the board may inquire into the circumstances surrounding the commission of the crime in
5 order to fix the degree of discipline or to determine if the conviction is substantially related to the
6 qualifications, functions, and duties of the licensee in question.

7 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
8 'registration.'"

9 10. Section 2761 of the Code states:

10 "The board may take disciplinary action against a certified or licensed nurse or deny an
11 application for a certificate or license for any of the following:

12 "(a) Unprofessional conduct, which includes, but is not limited to, the following:

13 "....

14 "(f) Conviction of a felony or of any offense substantially related to the qualifications,
15 functions, and duties of a registered nurse, in which event the record of the conviction shall be
16 conclusive evidence thereof.

17 "..."

18 11. As of June 1997 and since repealed, Penal Code section 290(g)(1) stated:

19 "Any person who is required to register under this section based on a misdemeanor
20 conviction or juvenile adjudication who willfully violates any requirement of this section is guilty
21 of a misdemeanor punishable by imprisonment in a county jail not exceeding one year."

22 REGULATORY PROVISIONS

23 12. California Code of Regulations, title 16, section 1444, states:

24 "A conviction or act shall be considered to be substantially related to the qualifications,
25 functions or duties of a registered nurse if to a substantial degree it evidences the present or
26 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
27 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

28 ///

1 “(a) Assaultive or abusive conduct including, but not limited to, those violations listed in
2 subdivision (d) of Penal Code Section 11160.

3 “(b) Failure to comply with any mandatory reporting requirements.

4 “(c) Theft, dishonesty, fraud, or deceit.

5 “(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
6 Penal Code.”

7 12. California Code of Regulations, title 16, section 1445 states in relevant part:

8 “....

9 “(b) When considering the suspension or revocation of a license on the grounds that a
10 registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such
11 person and his/her eligibility for a license will consider the following criteria:

12 “(1) Nature and severity of the act(s) or offense(s).

13 “(2) Total criminal record.

14 “(3) The time that has elapsed since commission of the act(s) or offense(s).

15 “(4) Whether the licensee has complied with any terms of parole, probation, restitution or
16 any other sanctions lawfully imposed against the licensee.

17 “(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the
18 Penal Code.

19 “(6) Evidence, if any, of rehabilitation submitted by the licensee.”

20 **COST RECOVERY**

21 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licensee found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 ///

26 ///

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(9/10/1997 Criminal Conviction - Failure to Register as a Sex Offender)**

3 14. Respondent has subjected his license to disciplinary action under sections 490 and
4 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
5 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
6 follows:

7 a. On or about July 30, 1997, in a criminal proceeding entitled *People of the State*
8 *of California v. Thomas Walker Carson*, in Riverside County Superior Court, case number
9 BAF970163, Respondent was convicted on his plea of guilty of violating Penal Code section
10 290(g)(1), failure to register as a sex offender, a misdemeanor.

11 b. As a result of the conviction, on or about September 10, 1997, Respondent was
12 sentenced to three years summary probation, and ordered to serve two days in jail, with credit for
13 two days of time served. Respondent was further ordered to pay \$240.00 in fees, fines, and
14 restitution, and register with law enforcement per Penal Code section 290.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(7/28/1989 Criminal Conviction -Lewd Acts with Child Under 14)**

17 15. Respondent has subjected his license to disciplinary action under sections 490 and
18 2761, subdivision (f) of the Code in that Respondent was convicted of a crime that is substantially
19 related to the qualifications, functions, and duties of a registered nurse. The circumstances are as
20 follows:

21 a. On or about July 28, 1989, in a criminal proceeding entitled *People of the State*
22 *of California v. Thomas Walker Carson*, in San Bernardino Superior Court, case number
23 FSB269283, Respondent was convicted of violating Penal Code section 288(a), lewd acts with a
24 child under 14, a serious and violent felony.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board issue a decision:

28 ///

1 1. Revoking or suspending Registered Nurse License Number RN 436738 issued to
2 Thomas Walker Carson, aka Thomas W. Carson

3 2. Ordering Thomas Walker Carson, aka Thomas W. Carson, to pay the Board the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 125.3;

6 3. Taking such other and further action as deemed necessary and proper.

7 DATED:

July 14, 2011

Louise R. Bailey

LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

11 SD2011800336
12 80519756.doc